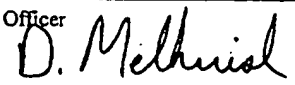


PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 509028 DIS/gld	<div style="display: flex; justify-content: space-between;"> <div>FOR FURTHER ACTION</div> <div>See Form PCT/IPEA/416</div> </div>	
International application No. PCT/NZ2004/000182	International filing date (day/month/year) 12 August 2004	Priority date (day/month/year) 20 August 2003
International Patent Classification (IPC) or national classification and IPC Int. Cl. ⁷ A61M 16/16		
Applicant FISHER & PAYKEL HEALTHCARE LIMITED et al		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 3 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p style="margin-left: 20px;">a. <input checked="" type="checkbox"/> (sent to the applicant and to the International Bureau) a total of 2 sheets, as follows:</p> <div style="margin-left: 40px;"> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions);</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> </div> <p style="margin-left: 20px;">b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <div style="margin-left: 20px;"> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p> </div>	
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Date of submission of the demand 15 June 2005	Date of completion of the report 11 October 2005
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer <div style="text-align: center; margin: 10px 0;">  DAVID MELHUIH </div> Telephone No. (02) 6283 2426

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/NZ2004/000182

Box No. I **Basis of the report**

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language which is the language of a translation furnished for the purposes of:

- ☐ international search (under Rules 12.3 and 23.1 (b))
- ☐ publication of the international application (under Rule 12.4)
- ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

☐ the international application as originally filed/furnished

☒ the description:

pages 1, 3 - 8 as originally filed/furnished

pages* received by this Authority on with the letter of

pages* 2 received by this Authority on 4 October 2005 with the letter of 4 October 2005

☒ the claims:

pages as originally filed/furnished

pages* as amended (together with any statement) under Article 19

pages* received by this Authority on with the letter of

pages* 9 received by this Authority on 4 October 2005 with the letter of 4 October 2005

☒ the drawings:

pages 1/4 - 4/4 as originally filed/furnished

pages* received by this Authority on with the letter of

pages* received by this Authority on with the letter of

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to the sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to the sequence listing (*specify*):

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/NZ2004/000182

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims 1 – 5	YES
	Claims	NO
Inventive step (IS)	Claims 1 – 5	YES
	Claims	NO
Industrial applicability (IA)	Claims 1 – 5	YES
	Claims	NO

2. Citations and explanations (Rule 70.7)Claims 1 to 5:

Claims 1 to 5 meet the requirements of PCT Articles 33(2) – (4). None of the prior art documents, or obvious combination thereof, disclose a water chamber with an elongate flow tube, wherein an opening at the distal end of the flow tube is transverse to an axis of the tube, the transverse direction not being downwards. The closest art of

WO 2002/066106 A

has the distal opening of the flow tube facing downwards. The person skilled in the art would not consider changing the direction of the distal opening of the flow tube in the citation because the direction of the opening is essential for the device of the citation to work.

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 509028 DIS	<div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">FOR FURTHER ACTION</div> <div style="text-align: right;">see Form PCT/ISA/220 as well as, where applicable, item 5 below.</div> </div>	
International application No. PCT/NZ2004/000182	International filing date (day/month/year) 12 August 2004	(Earliest) Priority Date (day/month/year) 20 August 2003
Applicant FISHER & PAYKEL HEALTHCARE LIMITED et al		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of **4** sheets.

☐ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. ☐ With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.

2. ☐ Certain claims were found unsearchable (See Box No. II).

3. ☐ Unity of invention is lacking (See Box No. III).

4. With regard to the title,

☐ the text is approved as submitted by the applicant.

☒ the text has been established by this Authority to read as follows:

WATER CHAMBER FOR HUMIDIFIER

5. With regard to the abstract,

☐ the text is approved as submitted by the applicant.

☒ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the drawings,

a. the figure of the drawings to be published with the abstract is Figure No. **3**

☐ as suggested by the applicant.

☐ as selected by this Authority, because the applicant failed to suggest a figure.

☒ as selected by this Authority, because this figure better characterizes the invention.

b. ☐ none of the figures is to be published with the abstract.

Box No. IV Text of the Abstract (Continuation of item 5 of the first sheet)

A water chamber (1) adapted for use in conjunction with a heater base for humidifying an air stream. The chamber (1) comprises at least one horizontally oriented gases port (3) including an elongate flow tube (5) extending into the chamber (1) from the inner periphery of the gases port (3), the flow tube (5) having an opening at its distal end facing a direction transverse to the axis of the tube (5).

INTERNATIONAL SEARCH REPORT

International application No.

PCT/NZ2004/000182

A. CLASSIFICATION OF SUBJECT MATTER

Int. Cl. ⁷: A61M 16/16

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

DWPI and keywords: A61M and humidifier and water and receptacle and similar terms

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 2002/066106 A1 (RESMED LIMITED) 29 August 2002 Page 6 lines 11 to 20, figure 1	1
P, X	DE 10226160 A1 (HOFFRICHTER GMBH) 8 January 2004 Figures 2 and 5	1
A	US 4152379-A (SUHR) 1 May 1979 Whole document	
A	US 4588425 A (USRY et al.) 13 May 1986 Whole document	

☐ Further documents are listed in the continuation of Box C☒ See patent family annex

- * Special categories of cited documents:
- "A" document defining the general state of the art which is not considered to be of particular relevance
- "E" earlier application or patent but published on or after the international filing date
- "L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- "O" document referring to an oral disclosure, use, exhibition or other means
- "P" document published prior to the international filing date but later than the priority date claimed
- "T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- "X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- "Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
- "&" document member of the same patent family

Date of the actual completion of the international search
12 October 2004

Date of mailing of the international search report

15 OCT 2004

Name and mailing address of the ISA/AU

AUSTRALIAN PATENT OFFICE
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Authorized officer

DAVID MELHUISE

Telephone No : (02) 6283 2426

INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No.

PCT/NZ2004/000182

This Annex lists the known "A" publication level patent family members relating to the patent documents cited in the above-mentioned international search report. The Australian Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

Patent Document Cited in Search Report		Patent Family Member			
WO	02066106	EP	1359962	EP	1359963
		US	2004060559	WO	02066107
US	2004055597				
DE	10226160	NONE			
US	4152379	NONE			
US	4588425	AU	34877/84	CA	1242640
		JP	60122571	EP	0141399
Due to data integration issues this family listing may not include 10 digit Australian applications filed since May 2001.					
END OF ANNEX					

PCT
INTERNATIONAL SEARCH REPORT
(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 509028 DIS	FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below.	
International application No. PCT/NZ2004/000182	International filing date (<i>day/month/year</i>) 12 August 2004	(Earliest) Priority Date (<i>day/month/year</i>) 20 August 2003
Applicant FISHER & PAYKEL HEALTHCARE LIMITED et al		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 4 sheets.

☐ It is also accompanied by a copy of each prior art document cited in this report.

1. **Basis of the report**

- a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

- b. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☐ Certain claims were found unsearchable (See Box No. II).

3. ☐ Unity of invention is lacking (See Box No. III).

4. With regard to the title,

☐ the text is approved as submitted by the applicant.

☒ the text has been established by this Authority to read as follows:

WATER CHAMBER FOR HUMIDIFIER



5. With regard to the **abstract**,

☐ the text is approved as submitted by the applicant.

☒ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the **drawings**,

- a. the figure of the drawings to be published with the abstract is Figure No. 3

☐ as suggested by the applicant.

☐ as selected by this Authority, because the applicant failed to suggest a figure.

☒ as selected by this Authority, because this figure better characterizes the invention.

- b. ☐ none of the figures is to be published with the abstract.